

House Bill 127 (AS PASSED HOUSE AND SENATE)

By: Representatives Lindsey of the 54th and Willard of the 49th

A BILL TO BE ENTITLED
AN ACT

To amend Chapter 2 of Title 44 of the Official Code of Georgia Annotated, relating to recordation and registration of deeds and other instruments, so as to adopt the Uniform Real Property Electronic Recording Act; to provide for definitions; to provide for the validity of electronic documents; to provide for the recording of certain documents; to provide for the adoption of rules, regulations, and standardized forms; to provide for uniformity of application and construction; to provide for the relation of this Act to the federal Electronic Signatures in Global and National Commerce Act; to provide for related matters; to provide an effective date; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Chapter 2 of Title 44 of the Official Code of Georgia Annotated, relating to recordation and registration of deeds and other instruments, is amended in Article 1, relating to recording, by designating the existing matter as Part 1 and adding a new part to read as follows:

"Part 2

44-2-35.

This part shall be known and may be cited as the 'Uniform Real Property Electronic Recording Act.'

44-2-36.

As used in this part, the term:

(1) 'Authority' means the Georgia Superior Court Clerks' Cooperative Authority established pursuant to Code Section 15-6-94.

(2) 'Document' means information that is:

(A) Inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form; and

(B) Eligible to be recorded in the land records maintained by the clerk of superior court.

(3) 'Electronic' means relating to technology having electrical, digital, magnetic, wireless, optical, electromagnetic, or similar capabilities.

(4) 'Electronic document' means a document that is received by the clerk of superior court in an electronic form.

(5) 'Electronic signature' means an electronic sound, symbol, or process attached to or logically associated with a document and executed or adopted by a person with the intent to sign the document.

(6) 'Paper document' means a document that is received by the clerk of superior court that is not electronic.

(7) 'Person' means an individual, corporation, business trust, estate, trust partnership, limited liability company, association, joint venture, public corporation, government, or governmental subdivision, agency, or instrumentality, or any other legal or commercial entity.

(8) 'State' means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States.

44-2-37.

(a) An electronic document prepared and filed in compliance with this part shall satisfy any requirement as a condition for recording that a document be an original, on paper or another tangible medium, or in writing.

(b) An electronic signature shall satisfy any requirement as a condition for recording that a document be signed.

(c) A requirement that a document or a signature associated with a document be notarized, acknowledged, verified, witnessed, or made under oath is satisfied if the electronic signature of the person authorized to perform that act, and all other information required to be included by other applicable law, is attached to or logically associated with the document or signature. A physical or electronic image of a stamp, impression, or seal need not accompany an electronic signature.

44-2-38.

A clerk of superior court:

(1) Who implements any of the functions listed in this Code section shall do so in compliance with standards established by the authority;

(2) May receive, index, store, archive, and transmit electronic documents;

(3) May provide for access to, and search and retrieval of, documents and information by electronic means;

(4) Who accepts electronic documents for recording shall continue to accept for filing paper documents as authorized by state law and shall record both electronic documents and paper documents in the same manner as provided for by law;

(5) For archival purposes, may convert into electronic form paper documents accepted for recording;

(6) May convert into electronic form historical documents recorded on paper;

(7) May accept electronically any fee or other moneys that the clerk of superior court is authorized to collect; and

(8) May agree with other officials of a state or a political subdivision thereof, or of the United States, on procedures or processes to electronically facilitate satisfaction of prior approvals and conditions precedent to recording and on the electronic payment of statutorily required fees and other moneys.

44-2-39.

(a) The authority shall adopt rules and regulations and any standardized forms necessary to implement this part.

(b) To promote uniform standards and practices and compatibility of technology used within offices of clerks of superior court in this state and recording offices in other states that have enacted or may enact provisions substantially similar to those contained within this part, the authority shall consider when adopting, amending, and repealing its rules and regulations and any standardized forms:

(1) Standards and practices of other jurisdictions;

(2) The most recent standards promulgated by national standard-setting bodies, such as the Property Records Industry Association;

(3) The views of interested persons and governmental officials and entities;

(4) The needs of counties of varying size, population, and resources; and

(5) Standards that ensure that electronic documents are accurate, authentic, adequately preserved, and resistant to tampering.

44-2-39.1.

In applying and construing this part, consideration shall be given to the need to promote uniformity of the law with respect to its subject matter among states that enact substantially similar provisions.

93 44-2-39.2.
94 The provisions of this part modify, limit, and supersede the federal Electronic Signatures
95 in Global and National Commerce Act, 15 U.S.C. Section 7001, et seq., but shall not
96 modify, limit, or supersede Section 101(c) of that federal act, 15 U.S.C. Section 7001(c),
97 or authorize electronic delivery of any of the notices described in Section 103(b) of that
98 federal act, 15 U.S.C. Section 7003(b)."

99 **SECTION 2.**

100 This Act shall become effective upon its approval by the Governor or upon its becoming law
101 without such approval.

102 **SECTION 3.**

103 All laws and parts of laws in conflict with this Act are repealed.